

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Inquiry into Policies and Programs to)
Assure Universal Telephone Service in a)
Competitive Market Environment)

RM No. 8388

COMMENTS OF HYPERION TELECOMMUNICATIONS, INC.

Hyperion Telecommunications, Inc. ("Hyperion"), by its attorneys, hereby submits its comments in response to the Petition of MFS Communications Company, Inc. for a Notice of Inquiry and En Banc Hearing (the "Petition"). Hyperion supports MFS' request for a Notice of Inquiry and believes that the Commission must resolve the issues raised by the Petition before amending its access charge rules.

I. The Commission Should Initiate a Notice of Inquiry Regarding Universal Service

The most important responsibility of the Commission is to make available to all the people of the United States an efficient communication service at reasonable charges. 47 U.S.C. §151. Local exchange carriers ("LECs") have argued that the only way to assure the preservation of affordable service is to maintain the LEC monopoly over services that allegedly subsidize local exchange rates. Increasingly, however, regulatory agencies have rejected such arguments

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and determined that increased competition has no demonstrable adverse effect on universal service.^{1/}

As Hyperion has stated in other proceedings, it is time for the Commission to examine closely the present system.^{2/} The preservation of a monopoly when competition is possible will never result in the most efficient provision of service. The Commission can achieve its mandate that efficient service be provided at reasonable charges only by removing the barriers to entry that prevent competition in the market for all telephone services.

Unrestricted competition presents the possibility that it will not be cost-effective for any carrier to serve certain segments of the population. Because such a result is antithetical to the Commission's mandate and the public interest, the Commission must devise a method for ensuring that service is provided. While it is premature for Hyperion to comment on the optimal method of achieving the goal of universal service, Hyperion agrees with MFS that a Notice of Inquiry is required.

The system of monopoly pricing employed by LECs allegedly uses implicit subsidies to support affordable local exchange rates. To date, however,

^{1/} For example, despite LEC claims that competition for intraLATA interexchange services would have disastrous consequences on universal service, virtually every state has authorized intraLATA competition after finding that competition would not negatively impact universal service.

^{2/} See, e.g., Reform of the Interstate Access Charge Rules, RM-8356, Comments of Hyperion Telecommunications, Inc. at 13 (filed Nov. 1, 1993).

the Commission has not ruled comprehensively on the scope of existing subsidies or the amount of any subsidy required to assure that communications service remains affordable to all. Before it rules on the broad policy questions presented by the Petition, the Commission should evaluate all relevant information on the local exchange carrier's alleged subsidies and the effect competition will have on monopoly services that either contribute or receive subsidies. Accordingly, Hyperion agrees that a Notice of Inquiry is the best way for the Commission to proceed.

II. The Commission Must Resolve the Issues Raised in the Petition Before it Amends the Access Charge Rules

In the past year, the Commission has commenced a number of proceedings regarding possible reform of the access charge rules.^{3/} While there has been no consensus on the timing or the substance of any proposed changes, all parties agree that the access charge rules cannot be changed without addressing the question of universal service. Accordingly, the Commission can either consider both issues in the same proceeding or it can address universal service as the initial phase of an access charge reform proceeding.

^{3/} For example, the Commission has received comments on the following: the staff working paper entitled Federal Perspectives on Access Charge Reform; NARUC's petition for a Notice of Inquiry Concerning Access Issues; Ameritech's Petition for Declaratory Ruling and Related Waivers to Establish a New Regulatory Model for the Ameritech Region; and USTA's Petition for Rulemaking regarding "Reform of the Interstate Access Charge Rules. A number of LECs also have requested waivers of the Commission's Rules to implement experimental pricing plans for access services.

Hyperion believes the Commission should not allow the complicated issues surrounding access charge reform to delay establishment of universal service policies that will ensure that Americans are provided with access to telecommunications services. By considering universal service issues prior to other access charge issues, the Commission not only will simplify future efforts to reform the access charge rules, it will facilitate efforts by the Commission and the states to remove restrictions on competition for local services and allow consumers to reap the benefits that result when a choice of carriers is available. Accordingly, the Commission must address the universal service questions raised by the Petition before considering other issues related to access charge reform.

III. Conclusion

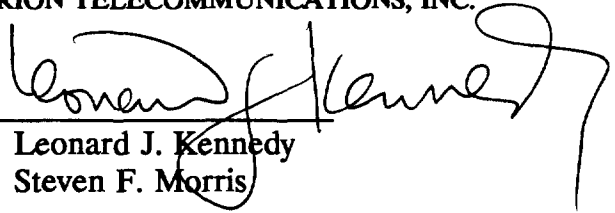
Hyperion strongly supports MFS' request for a Notice of Inquiry to consider the issues surrounding universal telephone service. The Commission should commence such a proceeding at once and should not allow pending

proposals regarding access charge reform to delay consideration of the important issues raised by the Petition.

Respectfully submitted,

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By


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